

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 354 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements? No
2. To be referred to the Reporter or not? No :
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement? No
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No :

MECHTECH ENGINEERS

Versus

ANUMANI ENGINEERING WORKS& 1

Appearance:

MR BV LAKHIA for Petitioner

M/S PATEL ADVOCATES for Respondent No. 1, 3

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 21/06/1999

ORAL JUDGEMENT

1. It appears that after obtaining the interim order on 27th January 1995 the petitioner is no more interested in this petition. The case has been called out four times at different intervals but none appears for the petitioner. Learned Counsel for the respondent has been heard and the record has been examined.

2. Brief facts giving rise to this petition are that the petitioner is a firm carrying on business of manufacturing crusher and its spare parts. The respondent No.1 is partnership firm. The respondent No.2 is authority delegated with powers to refer industrial disputes of reinstatement to the appropriate Labour Court under the Industrial Disputes Act, 1947 for adjudication. The petitioner gave contract to respondent No.1 on 29.5.1993 for manufacturing spare parts of crusher machines and other items of crusher machines. The said contract was for a period between 1.6.1993 to 31.3.1994. The petitioner did not desire to renew the said contract after expiry of period ending on 31.3.1994. The respondent No.2, however, desired to get the contract renewed for a further period. The respondent No.1 filed Civil Suit No.761 of 1994 in the Court of Civil Judge (S.D.), Vadodara and obtained ex-parte injunction on 22.4.1994 restraining the petitioner from terminating the contract executed on 29.5.1993 and from entrusting the said work to any other person. However, after final hearing the said ex-parte injunction was vacated on 16.5.1994. Thereafter Ashokkumar Maganlal Rajput and Laxmanbhai Kantibhai Mali, partners of respondent No.1 and others raised industrial dispute of their reinstatement before the respondent No.2. The respondent No.2 referred the dispute in respect of six persons including the above two named persons for adjudication. It is this order which is under challenge in this petition on the ground that the order of reinstatement is without jurisdiction.

3. It is admitted in Para : 7 of the petition that under Section 10 of the Industrial Disputes Act existing or apprehended industrial disputes can be referred for adjudication to the Labour Court or to the Industrial Tribunal. In Para : 8 of the petition it is further admitted that the respondent No.2 has been invested with powers of the State Government vide notification dated 26.3.1973 to refer the industrial dispute in respect of matters as specified in Item No.3 of Shedule II and Item No.10 of Schedule III. In view of this admitted position it is clear that respondent No.2 had jurisdiction to refer industrial disputes for adjudication by the Labour Court or by the Industrial Tribunal. The grievance of the petitioner, however, is that Ashokkumar Maganlal Rajput and Laxman Kantibhai Mali were not workmen of the petitioner and that the remaining four persons were never employed by the petitioner and as such dispute raised by them could not be referred by the respondent No.2 for adjudication. This grievance is without any foundation.

Section 10(1) of the Industrial Disputes Act, 1947, inter-alia provides that where the appropriate Government is of the opinion that industrial dispute exists or is apprehended, it may, at any time by order in writing, refer dispute for adjudication to the Labour Court or Industrial Tribunal, etc.

4. From Para : 8 of the petition it is clear that the respondent No.2 was delegated authority, by the State Government vide notification dated 26.3.1973, to refer such industrial disputes to the Labour Court or to the Industrial Tribunal for adjudication. If the respondent No.2 had delegated authority of this nature then in terms of Section 10(1) of the Act it was required to be seen only this much whether any industrial dispute or apprehended industrial dispute existed for adjudication or not. If it was found that industrial dispute was raised or apprehended industrial dispute existed the respondent No.2 had no option but to refer the dispute for adjudication, and for that purpose appropriate Government is not entitled to adjudicate whether the dispute raised or apprehended industrial dispute falls within any of the provisions of the Industrial Disputes Act or not. That exercise is to be undertaken either by the Labour Court or by the industrial Tribunal. Since the respondent No.2 on the allegations prima facie found existence of industrial dispute it was fully justified in referring the same to the Labour Court. There is thus no illegality committed in the impugned order dated 4.8.1994 passed by the respondent No.2. There is no substance in this petition which is hereby dismissed. Interim order dated 27.1.1995 is hereby vacated.

sd/-

Date : June 21, 1999 (D. C. Srivastava, J.)

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